

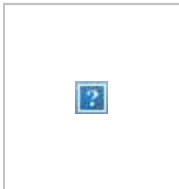
From: [J Edward Bell](#)
To: [Bain, Adam \(CIV\)](#); [Zina Bash](#)
Cc: [Anwar, Haroon \(CIV\)](#); [Platt, Elizabeth K. \(CIV\)](#); [Mirsky, Sara J. \(CIV\)](#); [Ryan, Patrick J. \(CIV\)](#); [Lipscomb, Bridget \(CIV\)](#); [Dawn Bell](#)
Subject: [EXTERNAL] Re: Dr. Portier deposition
Date: Tuesday, May 14, 2024 3:48:15 PM
Attachments: [image001.png](#)
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[image003.png](#)
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[image010.png](#)

Adam

Thank you for the note about Dr. Portier. I have included Robin Greenwald and would ask her to respond to your questions. I am aware of numerous depositions of Dr. Portier that have been taken in Italy and am not aware of the impediments to which you refer.

Again, maybe Robin can update us on this issue.

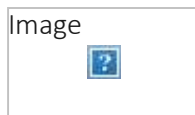
Thanks
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Image



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From: Bain, Adam (CIV) <Adam.Bain@usdoj.gov>
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Subject: Dr. Portier deposition

Ed and Zina,

I'm writing pursuant to your request to take the deposition of former ATSDR Director Christopher Portier in Italy.

We have consulted with our Office of Foreign Litigation about taking a deposition in a foreign country.

We have been advised that the United States cannot participate in, and plaintiffs cannot move forward with, taking the testimony of a person in Italy (whether or not through remote means) without complying with Italian law. Italy and the United States are both party to the Convention on the Taking of Evidence Abroad in Civil or Commercial Matters (Hague Evidence Convention). Chapter II (Articles 15-22) of the Hague Evidence Convention allows for the taking of evidence on a voluntary basis without submitting a request for compulsory action through the Central Authority (which is governed by Chapter I).

Article 15 of the Hague Evidence Convention permits a U.S. diplomatic officer or consular agent to take evidence of U.S. nationals without compulsion in order to aid U.S. proceedings in civil or commercial matters. Article 16 of the Hague Evidence Convention permits a U.S. diplomatic agent or consular officer to take evidence in aid of a U.S. proceeding in civil or commercial matters of nationals in the state in which the agent or officer exercises functions of a third state without compulsion **with the prior permission of a host state**.

Italy has not issued any specific declaration with respect to the applicability of Articles 15 or 16. Accordingly, prior permission is required for proceeding with a consular deposition of a non-U.S. national under Article 16 but not required if the deponent is a U.S. national (and not a dual U.S.-Italian citizen) under Article 15. The procedures for consular depositions are described [here](#).

Additionally, United States government attorneys traveling to the deposition need to obtain an official passport, receive e-country clearance and comply with applicable visa requirements, if any.

Given the expense and procedures required for this deposition, we would request that you describe the relevance of Dr. Portier's anticipated testimony. We understand that Dr. Portier was not involved in personally performing the work for any ATSDR Camp Lejeune studies, but was performing an oversight role as Director of ATSDR. Therefore, his testimony is likely of limited relevance and duplicative of witnesses already identified for deposition who have more first-hand information, namely Morris Maslia and Frank Bove. We reserve the right to seek a protective order regarding this proposed deposition.

Best,

Adam



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